

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 15-1037-BRO (KLS) Date: September 8, 2015

Title *Federico Rosas v. S. Peery*

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

n/a
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: ORDER TO SHOW CAUSE RE: DISMISSAL

On June 29, 2015, Petitioner, a state prisoner proceeding *pro se*, filed a Petition For Writ Of Habeas Corpus (“Petition”). (ECF Docket No. 1.) On July 27, 2015, Respondent moved to dismiss the Petition as untimely. (ECF Docket No. 6.) The Court’s Order of July 7, 2015 directed Petitioner to file an opposition, if any, to a motion to dismiss within 30 days of the date of service thereof. (ECF Docket No. 4.) Accordingly, Petitioner’s opposition was due on August 26, 2015.

On August 23, 2015, three days before Petitioner’s opposition was due, Petitioner mailed a notice of change of address. (ECF Docket No. 10.) However, thirteen days have passed since the date on which Petitioner’s opposition was due, and Petitioner has filed no response to the Motion To Dismiss.

Local Rule 7-12 states that a party’s failure to file a required document such as an opposition to a motion “may be deemed consent to the granting [] of the motion.” Further, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, an action may be subject to involuntary dismissal if a plaintiff “fails to prosecute or to comply with these rules or a court order.” Thus, the Court could properly recommend dismissal of the action for Plaintiff’s failure to oppose the Motion To Dismiss and to timely comply with the Court’s Order of July 7, 2015.

However, in the interests of justice, plaintiff is **ORDERED TO SHOW CAUSE on or before October 8, 2015** why judgment should not be entered in favor of the

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defense and the action dismissed under Local Rules 7-12 and Rule 41(b) of the Federal Rules of Civil Procedure. Plaintiff's response to this OSC must include either: (a) a sworn declaration (not to exceed 3 pages) explaining the reasons why Plaintiff failed to timely respond to the Motion To Dismiss *or* (b) a complete and detailed response (in a manner fully complying with the Local Rules) to the Motion To Dismiss.

Alternatively, Plaintiff may discharge this OSC by requesting the voluntary dismissal of the action with no further consequence.

Plaintiff is expressly cautioned that his failure to respond to this order will lead the Court to recommend dismissal based on Local Rules 7-12 and Rule 41 of the Federal Rules of Civil Procedure.

Initials of Preparer

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